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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10 PAUL STEPHEN KELLER,
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12 Plaintiff,

13 v.

14 KATHLEEN ALISON, et al.,

15 Defendants.
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Case No. 1:21-cv-01707-EPG (PC)

FINDINGS AND RECOMMENDATIONS,
RECOMMENDING THAT CERTAIN
CLAIMS AND DEFENDANTS BE
DISMISSED

(ECF NOS. 1 & 9)

OBJECTIONS, IF ANY, DUE WITHIN
FOURTEEN DAYS

ORDER DIRECTING CLERK TO ASSIGN
DISTRICT JUDGE

18 Paul Keller (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with
19 this civil rights action filed pursuant to 42 U.S.C. § 1983.

20 Plaintiff filed the complaint commencing this action on December 1, 2021. (ECF No.
21 1). The Court screened Plaintiff’s complaint. (ECF No. 9). The Court found that only the
22 following claim should proceed past the screening stage: Plaintiff’s Eighth Amendment
23 conditions of confinement claim against defendants Doe 1, Degough, and Doe 2. (*Id.*).

24 The Court gave Plaintiff thirty days to either: “a. File a First Amended Complaint that is
25 **no longer than twenty-five pages**; b. Notify the Court in writing that he does not want to file
26 an amended complaint and instead wants to proceed only on his Eighth Amendment conditions
27 of confinement claim against defendants Doe 1, Degough, and Doe 2; or c. Notify the Court in
28 writing that he wants to stand on his complaint.” (*Id.* at 20). On January 27, 2022, Plaintiff

1 notified the Court that he wants to proceed only on his Eighth Amendment conditions of
2 confinement claim against defendants Doe 1, Degough, and Doe 2. (ECF No. 13).

3 Accordingly, for the reasons set forth in the Court's screening order that was entered on
4 January 7, 2022 (ECF No. 9), and because Plaintiff has notified the Court that he wants to
5 proceed only on his Eighth Amendment conditions of confinement claim against defendants
6 Doe 1, Degough, and Doe 2 (ECF No. 13), it is HEREBY RECOMMENDED that all claims
7 and defendants be dismissed, except for Plaintiff's Eighth Amendment conditions of
8 confinement claim against defendants Doe 1, Degough, and Doe 2.

9 These findings and recommendations will be submitted to the United States district
10 judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
11 **fourteen (14) days** after being served with these findings and recommendations, Plaintiff may
12 file written objections with the Court. The document should be captioned "Objections to
13 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file
14 objections within the specified time may result in the waiver of rights on appeal. Wilkerson v.
15 Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394
16 (9th Cir. 1991)).

17 Additionally, IT IS ORDERED that the Clerk of Court is directed to assign a district
18 judge to this case.

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20 IT IS SO ORDERED.

21 Dated: January 28, 2022

22 /s/ Eric P. Grogan
23 UNITED STATES MAGISTRATE JUDGE
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